Supreme Court, U.S.
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No.

IN THE

Supreme Court of the United States

ROGER DALE JUNTUNEN, NATURAL FATHER
Petitioner

v.

MARK VANCE WAGNER, STEP FATHER,
AND THE STATE OF OHIO, ET. AL.

On Petition For Writ of Certiorari
To The Eleventh District Court of Appeals of Ohio

PETITION FOR WRIT OF CERTIORARI

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36pp

Introductory Statement
&
Questions Presented For Review

These two contested step father adoption cases question the constitutionality of the State of Ohio statutory contested adoption process used to permanently terminate the natural divorced father's parental rights in the best interest of his children without a proven finding of parental unfitness and could decide the due process federal question presented in the dicta of *Santosky v. Kramer*, 455 U.S. 745, at 760, footnote 10.

Question No. I

Are the contested adoption standards and procedures pursuant to Ohio Revised Code 3107 Adoption unconstitutional and does the permanent termination of the natural divorced father's parental rights under the best interest of the child standard without a proven finding of parental unfitness using these standards procedures violate the Due Process Clause of Fourteenth Amendment of the United States Constitution as stated in *Santosky v. Kramer*, 455 U.S. 745, at 760, footnote10?

Question No. II

Must the State of Ohio give full faith and credit to and recognize the "payment of health insurance" by the natural father pursuant to a State of Indiana child support order and include the natural father's health insurance payments as "child support" pursuant to the Supremacy Clause in Article VI of the United States Constitution, the Full Faith and Credit Clause in Article IV, Section 1 of the United States Constitution, federal law in 28 United States Code Section 1738B et. seq. Full faith and credit for child support orders, and the law of the State of Indiana?

Question No. III

Under Article VI and Article IV, Section 1 of the United States Constitution and 28 United States Code Section 1738B et. seq.,

must the natural father's health insurance payments be included in determining the amount of "support" used by the State of Ohio to issue a valid judgment under Ohio Revised Code 3107.07(A) in contested adoptions involving interstate child support orders, thereby rendering the March 22, 1995, judgment entry unconstitutional and void which determined that the consent of the natural father for the adoptions of his natural children was "not necessary for the adoption to proceed"?

Question No. IV

Is it an unconstitutional violation of the Due Process Clause of Amendment XIV of the United States Constitution and the civil liberties of the natural father to grant the contested adoptions permanently terminating his parental rights without providing the natural father or his counsel with notice of filing pursuant to Ohio Revised Code 2317.39 and without proof of service of notice of filing pursuant to Ohio Revised Code 3107.11 of the State-initiated reports of investigation and evaluation issued pursuant to State law in Ohio Revised Code Sections 3107.12 and 3107.031, upon which the final decrees of adoption were based and granted?

Question No. V

Is it an unconstitutional violation of the Due Process Clause of Amendment XIV of the United States Constitution and the civil liberties of the natural father contesting the adoptions of his children to grant the adoptions permanently terminating his parental rights without admitting the written State-initiated reports of evaluation and investigation issued pursuant to State law in Ohio Revised Code Sections 3107.12 and 3107.031 upon which the final decrees of adoption were based and granted into evidence at the best interest hearing subject to review and cross-examination by the natural father or his counsel?

Question No. VI

Is it an unconstitutional violation of the Equal Protection Clause or the Due Process Clause of Amendment XIV of the United States

Constitution and the civil liberties of the natural father contesting the adoptions of his natural children for a State of Ohio social worker to deny an interview of the natural father in the State's contested adoption investigation and evaluation process pursuant to State law in Ohio Revised Code Sections 3107.12 and 3107.031, and to officially deny any information from or about the natural father to be included in the State's official written report used to determine best interest of the child in order to grant the adoptions, where the State allows an interview of the prospective adoptive step father and of the natural mother of the children in order to evaluate their information and includes information from and about the prospective adoptive step father and the natural mother to be included in the State's official written report, but enters "N/A" in the State's written report in the section pertaining to information from and about the natural father in order for the court to determine the best interest of the natural father's children?

Question No. VII

Is the involuntary permanent termination of the parental rights of the natural divorced non-residential father via Ohio Revised Code 3107.15(A)(1), who has joint legal custody of his children pursuant to a valid enforceable State of Indiana Dissolution Decree, a violation of federal law in 28 United States Code Section 1738A et. seq., or of the Supremacy Clause in Article VI, the Full Faith and Credit Clause in Article IV, Section 1, or the Due Process Clause in Amendment XIV of the United States Constitution as stated in *Santosky v. Kramer*, 455 U.S. 745, at 760, footnote 10?

Question No. VIII

Is Ohio Revised Code 3107.07(A) unconstitutionally vague or in violation of the Supremacy Clause in Article VI or of the Full Faith and Credit Clause in Article IV, Section 1, or of the Equal Protection Clause in Amendment XIV, Section 1, of the United States Constitution, or of federal law in 28 United States Code Section 1738B et. seq., as applied in the various judicial districts of the State of Ohio, where appellate courts disagree on interpreting the statute, the Supreme Court of Ohio has not adopted either the federal law or statewide standards for choice of law in inter-

preting the statute and has not adopted the federal standard definitions of "child support" in order to interpret the phrase "provide for the maintainance and support of the minor as required by law or judicial decree" in order for lower Ohio courts to uniformly determine correct forms and amounts of "support" pursuant to 28 United States Code Section 1738B(b) and to apply the required choice of law pursuant to 28 United States Code Section 1738B(h)(2) to the Ohio statute Ohio Revised Code 3107.07(A) to determine whether the statutory right of a natural father to consent to their natural child's adoption is required, where the United States Congress has enacted the federal statute 28 United States Code Section 1738B et. seq. governing full faith and credit for child support orders, which defines the national standard definitions of "child support", and adopts national standards and procedures under which the courts of the various States *shall* interpret and enforce child support orders issued by sister States?

Question No. IX

As stated in the Restatement of the Law, Second, Conflict of Laws, Section 97, Comment c Constitutional limitations, does the Supremacy Clause in Article VI of the United States Constitution prevent application by the State of Ohio of the rule of res judicata in these contested adoption cases where the application of the rule of res judicata conflicts with the important federal policy in 28 United States Code Section 1738B(b) defining "payment of health insurance" as "child support", where the State of Ohio refused to credit the natural father's health insurance payments as "child support" in Ohio's determination of "consents not required" pursuant to Ohio Revised Code 3107.07(A)?

Question No. X

Is the federal policy underlying the federal statute 28 United States Code Section 1738B strong enough to overcome the State of Ohio rules of "res judicata" or "law of the case" and render the March 22, 1995, Judgment Entry of the Trumbull County Ohio Probate Court, determining that the natural father's consent is "not required" for the adoption to proceed pursuant to Ohio Revised Code 3107.07(A), void and subject to collateral attack in the

Supreme Court of the United States where the State of Ohio judgment entry is in violation of Article VI and Article IV, Section 1 of the United States Constitution for failing to apply federal law 28 United States Code Section 1738B(h)(2) Choice of law — Law of State of issuance of order, 28 United States Code Section 1738B(b) Definitions, "child support", 28 United States Code Section 1738B(f)(1) Recognition of child support orders, and the law of the State of Indiana to the Indiana child support order?

Question No. XI

Is it constitutional under Amendment I or Amendment XIV of the United States Constitution to grant or deny an adoption in the best interest of the child based on the religious beliefs and the church activities of the prospective adoptive family?

Parties to Proceeding

Emily's Contested Adoption:

Trumbull County Ohio Probate Court Case No. 94ADP057
Eleventh District Court of Appeals of Ohio Case No. 95-T-5228
Supreme Court of Ohio Case No. 97-504
Eleventh District Court of Appeals of Ohio Case No. 97-T-0223
Supreme Court of Ohio Case No. 99-1427

Roger Dale Juntunen, Petitioner, Natural Father

Mark Vance Wagner, Respondent, Step Father

Emily Anna Juntunen, Petitioner's Daughter, a minor

State of Ohio

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Benjamin's Contested Adoption:

Trumbull County Ohio Probate Court Case No. 94ADP058
Eleventh District Court of Appeals of Ohio Case No. 95-T-5229
Supreme Court of Ohio Case No. 97-502
Eleventh District Court of Appeals of Ohio Case No. 97-T-0224
Supreme Court of Ohio Case No. 99-1425

Roger Dale Juntunen, Petitioner, Natural Father

Mark Vance Wagner, Respondent, Step Father

Benjamin Matthew Juntunen, Petitioner's Son, a minor

State of Ohio

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Ohio Revised Code 3107.07; *Howard County, Indiana*, July 15, 1991, Dissolution Decree Civil Cause No. 34D01-9011-DR-00521; *In Re Adoption of Salisbury* (1982), 5 Ohio App. 3d 65; *In Re Adoption of Anthony* (1982), 5 Ohio App. 3d 60; *In Re Adoption of Dea* (March 22, 1994), Lake App. No. 92-L-120, Unreported; *In Re Adoption of Masa* (1986), 23 Ohio St. 3d 163, 23 O.B.R. 330, 492 N.E. 2d 140; *In Re Adoption of Bovett* (1987), 33 Ohio St. 3d 102; *In Re Adoption of Cline* (1993), 89 Ohio App. 3d 450; *In Re Adoption of Rantamaki* (Mar. 30, 1990), Ashtabula App. No. 88-A-1422, Unreported; *Allen v. Allen* (1988), 59 Ohio App. 3d 54; *In Re Adoption of Deems* (1993), 91 Ohio App. 3d 552; *Baker v. Grathwohl* (1994), 97 Ohio App. 3d 116; Civ.R. 54(B), Ohio Rules of Civil Procedure.

Eleventh District Court of Appeals of Ohio Citations Entered in Appellate Case No. 95-T-5228 (Emily's Adoption in Case No. 94ADP057) and Appellate Case No. 95-T-5229 (Benjamin's Adoption in Case No. 94ADP058) Opinions filed January 22, 1997, and Judgment Entries filed January 17, 1997 and January 21, 1997 (Consents Not Required Appeal):

Ohio Revised Code 3107.07(A); Howard County Superior Court I, Howard County, Indiana, July 15, 1991, Dissolution Decree Civil Cause No. 34D01-9011-DR-00521; *In Re Adoption of Greer* (1994), 70 Ohio St. 3d 293; *In Re Adoption of Bovett* (1987) 33 Ohio St. 3d 102, at 105; *In Re Adoption of Masa* (1986) 23 Ohio St. 3d 163; *Frank-enmuth Mut. Ins. Co. v. Seiz* (1983), 6 Ohio St. 3d 169; *Celestino v. Schneider* (1992), 84 Ohio App. 3d 192; *In Re Adoption of Anthony* (1982), 5 Ohio App. 3d 60; *In Re Adoption of Knight* (1994), 97 Ohio App. 3d 670, at 673; *In Re Adoption of Carletti* (1992), 78 Ohio App. 3d 244; *In Re Adoption of Cline* (1993), 89 Ohio App. 3d 450; *In Re Adoption of Freel* (June 14, 1996), Trumbull App. No. 95-T-5303, Unreported; *In Re Adoption of*

Deems (1993), 91 Ohio App. 3d 552, at 557.

Trumbull County Probate Court Citations Entered in Case No. 94ADP057 (Emily's Adoption) and Case No. 94ADP058 (Benjamin's Adoption) Judgment Entry & Opinion dated November 5, 1997 (Final Decrees of Adoption):

Ohio Revised Code 3107.161.

Eleventh District Court of Appeals of Ohio Citations Entered in Appellate Case No. 97-T-0223 (Emily's Adoption in Case No. 94ADP057) and Appellate Case No. 97-T-0224 (Benjamin's Adoption in Case No. 94ADP058) Judgment Entries & Opinions filed July 1, 1999 (Appeal of Final Decree of Adoption):

Ohio Revised Code 3107.07(A); *In Re Adoption of Wagner* (1997), 117 Ohio App. 3d 448, 690 N.E. 2d 959; *In Re Adoption of Wagner* (1997), 78 Ohio St. 3d, 1516, 679 N.E. 2d 311; Ohio Revised Code 3107.12; Ohio Revised Code 3107.161(B); *In Re Adoption of Jordan* (1991), 72 Ohio App. 3d 638, 645, 595 N.E. 2d 963; *In Re Adoption of Janoske* (Nov. 22, 1991), Geauga App. No. 90-G-1589, Unreported, at 3; *National Amusements, Inc. v. Springdale* (1990), 53 Ohio St. 3d 60, 62, 558 N.E. 2d 1178; *Nolan v. Nolan* (1984), 11 Ohio St. 3d 1, 3, 462 N.E. 2d 1410; *In Re Adoption of Charles B.* (1990), 50 Ohio St. 3d 88, 90, 552 N.E. 2d 884; *Bechtol v. Bechtol* (1990), 49 Ohio St. 3d 21, 23, 550 N.E. 2d 178; Ohio Revised Code 3107.031; Ohio Revised Code 3107.12(B); *In Re Adoption of Howell* (1991), 77 Ohio App. 3d 80, 93, 601 N.E. 2d 92; Ohio Revised Code 3107.12(D); *Burr v. Stark Cty. Bd. of Cmmrs.* (1986), 23 Ohio St. 3d 69, 491 N.E. 2d 1101; Ohio Revised Code 3107.17(B); *In Re Adoption of Dervenis* (Dec. 28, 1995), Franklin App. No. 95APF07-869, Unreported; *In Re Adoption of Aiken* (Mar. 30, 1992), Montgomery App. No. 12522, Unreported; Ohio Rules of Evidence and Procedure; *In Re Adoption of Hale* (July 22, 1988), Lake App. No. 12-238, Unreported, at 6; *In Re Adoption of Cline* (1993), 89 Ohio App. 3 450, at 456; *Quinn v. Helman* (Sept. 13, 1985), Trumbull App. No. 3509, Unreported, at 3.

Jurisdictional Statement

The date of the judgments of the Eleventh District Court of Appeals of Ohio sought to be reviewed is July 1, 1999, for Case No. 97-T-0224 (Benjamin's adoption) and Case No. 97-T-0223 (Emily's adoption). The dates when the Supreme Court of Ohio denied discretionary review of the judgments are October 27, 1999, for Case No. 99-1425 (Benjamin's adoption) and December 22, 1999, for Case No. 99-1427 (Emily's adoption). The statutory provision believed to confer on this Court jurisdiction to review on a writ of certiorari the judgment or order in question is 28 U.S.C. § 1257(a). Appeal jurisdiction lies where the state court has decided that a state statute as applied is not repugnant to the United States Constitution. *Charleston Fed. S. & L. Assn. v. Alderson*, 324 U.S. 182, 185-186 (1945); *Edwards v. Elliott*, 21 Wall. (88 U.S.) 532, 550-551 (1874); *accord, Allenberg Cotton Co.v. Pittman*, 419 U.S. 18, 22 (1974); *Poulos v. New Hampshire*, 345 U.S. 395, 403 (1953). 28 U.S.C. § 2403(a) may apply and notifications required by Rule 29.4(b) have been made. Probable jurisdiction should be noted.

Constitutional Provisions and Statutes Involved in the Case

Constitutional Provisions: Amendment I, United States Constitution; Amendment IX, United States Constitution; Amendment XIV, Section 1, United States Constitution; Article III, Section 2, United States Constitution; Article IV, Section 1, United States Constitution; Article VI, United States Constitution.

United States Statutory Provisions:
28 United States Code Section 1331;
28 United States Code Section 1441;
28 United States Code Section 1446;
28 United States Code Section 1738A et. seq.;
28 United States Code Section 1738B et. seq.;
28 United States Code Section 1738B(a);
28 United States Code Section 1738B(b);
28 United States Code Section 1738B(f)(1);
28 United States Code Section 1738B(h)(2)
(former U.S.C. § 1738B(g)(2)).

Statement of the Cases

The facts of these two contested adoption cases are that on March 22, 1995, the Trumbull County Probate Court entered a judgment determining the natural father's consent to be "not required" for the contested adoption process to continue to the "best interest" phase. On January 21, 1997, the Eleventh District Court of Appeals of Ohio affirmed the judgment of the Trumbull County Ohio Probate Court determining that the consent of the natural father was "not required" for the adoption to proceed. On May 28, 1997, the Supreme Court of Ohio declined jurisdiction to hear the appeal of the consent determination pursuant to Ohio Revised Code 3107.07(A) in the contested adoption proceedings.

The natural father has joint legal custody pursuant to a State of Indiana Dissolution Decree which is entitled to Full Faith and Credit in the State of Ohio pursuant to 28 U.S.C. § 1738(A).

The March 22, 1995, consent judgment did not permanently terminate the parental rights of the natural father. The natural father could not immediately petition for writ of certiorari of the consent judgment with the United States Supreme Court to determine the constitutionality of the Ohio contested adoption process until after the granting of the adoption petitions which permanently terminated the natural father's parental rights pursuant to Ohio Revised Code 3107.15(A)(1). The prior consent judgment was not a final judgment determining consent because the prior consent judgment is valid only if the adoptions being appealed are granted and affirmed on appeal, but the prior consent status judgment is not valid for any other adoption petitions if the contested adoption petitions are dismissed. (See Appendix, March 22, 1995, Judgment 6/8-10). The natural father's parental rights were not permanently terminated until the Trumbull County Probate Court issued judgment granting the adoptions on November 5, 1997, and this is the judgment which was timely appealed and is the original judgment sought to be reviewed by this Court in this Petition.

The case is now "ripe for review" because the Trumbull County

Probate Court issued judgment on November 5, 1997, granting the contested petitions for adoption under the best interest of the child standard without a proven finding of parental unfitness which permanently terminated the parental rights of the natural father pursuant to Ohio Revised Code 3107.15(A)(1) and now presents an undecided federal question for the United States Supreme Court to answer.

On July 1, 1999, the Eleventh District Court of Appeals of Ohio issued its Opinion and Judgment determining that it is not unconstitutional or repugnant to the United States Constitution to grant the contested adoptions thereby permanently terminating the parental rights of the natural father (1) based on the religious activities of the prospective adoptive family; (2) without notice of filing to the natural father or his counsel of the State-initiated best interest reports filed by the State with the trial judge; (3) without proof of service of notice of filing of the State-initiated best interest reports prior to the best interest hearing, (4) without entering the written reports into evidence at the best interest record in the best interest hearing; (5) excluding the natural father from participating in and being included in the State's investigation, evaluation, and written reports issued and filed with the court in the best interest of the child; (6) permanently terminating the parental rights of the natural father under the best interest of the child standard without a proven finding of parental unfitness; (7) using res judicata, law of the case, and Ohio Revised Code 3107.07(A) to negate the statutory right of the natural father to bar the adoptions by withholding his written consent as the natural father of the children, by denying full faith and credit for the natural father's payment of health insurance for the support of his children and excluding the health insurance portion of "child support" paid by the natural father in the State of Ohio's calculation of the amount of support used to issue judgment under Ohio Revised Code 3107.07(A).

The natural father raised federal questions pertaining to the validity of the consent judgment in the court of first instance in his First and Second Assignments of Error (See Appendix, Jan. 21, 1997, Opinion) in the "consent phase" appeal and again during the "best interest" hearing claiming that his consent to the adoption of

his natural children is and always has been required to be recognized by the court. (See Appendix, T.p., September 30, 1997, Transcript of Best Interest Hearing 103/8-10, 112/20-113/18, 114/4-14, 119/2-9).

The natural father raised the federal question in the appellate court pertaining to the constitutionality of Ohio Revised Code 3107.07(A) and the consent judgment issued pursuant to this statute in his Seventh Assignment of Error in the best interest appeal (see Appendix, July 1, 1999, Opinion 9/30-34) which was used to negate his statutory right to consent to his children's adoptions in his appeal of the granting of the contested adoptions after the best interest phase.

The natural father raised federal questions pertaining to the constitutionality of the Ohio contested adoption process in the appellate court on his appeal of the November 5, 1997, judgment entry granting the final decrees of the adoptions which permanently terminated the natural father's parental rights pursuant to Ohio Revised Code 3107.15(A)(1). The natural father's Second, Third, Fourth, Fifth, and Seventh Assignments of Error presented federal constitutional questions to the appellate court (See Appendix, July 1, 1999, Opinion 8/8 - 9/34) which were decided by the appellate court as devoid of and without merit.

On October 27, 1999, for Case No. 94ADP058 and separately on December 22, 1999, for Case No. 94ADP057, the Supreme Court of Ohio dismissed the individual discretionary appeals of the July 1, 1999, judgments of the Eleventh District Court of Appeals of Ohio for lack of any substantial constitutional question.

January 25, 2000, is the 90 day limit for filing a petition for writ of certiorari of the July 1, 1999, judgment issued by the Eleventh District Court of Appeals of Ohio in appellate Case No. 97-T-0224, where the Supreme Court of Ohio denied discretionary review in Case No. 99-1425 on October 27, 1999.

March 21, 2000, is the 90 day limit for filing a petition for writ of certiorari of the July 1, 1999, judgment issued by the Eleventh District Court of Appeals of Ohio in Case No. 97-T-0223, where

the Supreme Court of Ohio denied discretionary review in Case No. 99-1427 on December 22, 1999.

This consolidated petition for writ of certiorari for both of these cases has been filed within the time limits of Rule 13.1.

Argument

I. Contested Adoptions in Ohio:

The contested adoption process in Ohio first determines if a natural father may exercise his statutory right to block an adoption of his natural child by denying his written consent to the adoption. If the natural father's consent is found to be "not required", then the probate court determines the best interest of the child. Only if a final decree of adoption is granted and affirmed on appeal are the natural father's parental rights permanently terminated.

A finding of parental unfitness is not required to be proven and is assumed to exist if the contested adoption petitions are granted. However, if the contested adoption petitions are dismissed, the natural father is assumed to be fit, retains parental rights, and the prior consent determination is no longer applicable. This is a non-permanent determination of consent, it is not a final determination of consent unless the adoption follows, and the consent finding does not ultimately determine parental status, i.e., the natural parent retains parental rights throughout the contested adoption process, and the consent finding merely dispenses with the statutory requirement to obtain the written consent of the non-consenting natural parent.

Once the contested adoption process has determined that the natural father's consent is not required, the natural father who has joint legal custody of his children is treated by the State during the best interest determination as if his parental rights were already terminated. The State social worker conducting the State's best interest evaluation can disregard the parental status of the non-consenting natural father and deny him an interview; the State social worker can exclude the natural father from being included in the State's "best interest" investigations, evaluations, and written

reports; and the State can disregard providing notice from the trial court to the natural father of the filing with the trial court of the State's written best interest reports for the natural father's counsel to request copies of, review, and argue in favor for the natural father at the best interest hearing.

The contested adoption process in Ohio treats prospective adopting step-parents with more rights than the natural non-consenting divorced parent who is no longer living in the same home as their natural children. There is no compelling State interest for denying a natural father due process and equal protection, where the new step father is attempting to erase the natural father from the children's lives through a contested adoption proceeding under State law.

II. Parental Alienation & Step Parent Adoptions:

The State of Ohio statutorily recognizes the equal rights of divorced natural parents in O.R.C.3109.03. However, after a remarriage of the custodial natural parent following the divorce a new step parent enters the family situation, and depending upon the family dynamics, the non-custodial natural parent's relationship with his or her children may begin to decline whether or not a step parent is involved. This is referred to as Parental Alienation, and is covered in various psychological literature and is beyond the scope of this Petition. Parental Alienation occurs in some milder forms in most post-divorce families. However, it may progress into more severe or obsessive forms such as the denial of lawful visitations with the targeted parent, not allowing "reunification" with an absent natural parent who wants to return into and be a part of their child's life, and in the most severe forms, attempts to permanently terminate the targeted parent's parental rights through legal action. In short, the new step parent wants to replace the natural parent's parental role in parenting their children, and the parties may ultimately end up in an involuntary termination proceeding known as the "contested adoption". See other supporting sources and *Davis v. Flickinger*, 77 Ohio St. 3d 415, 674 N.E.2d 1159; *In the Matter of the Adoption of Richard Asente*, 1999 WL 1073664 (October 29, 1999) (Ohio App. 11 Dist.), discretionary appeal dismissed (December 23, 1999); "Lagging

Behind the Times: Parenthood, Custody, and Gender Bias in the Family Court" (Summer 1998), 25 Fla+.St.U.L.Rev. 891; "Note: Stepparent Adoption and Involuntary Termination of Parental Rights: When Petitioners Come to Court with Unclean Hands" (Fall 1996), 61 Mo.L.Rev. 995.

III. Parental Rights and Parental Status are Constitutionally-Protected, Fundamental Liberty Interests of Natural Parents in the United States:

The United States Supreme Court, Federal Courts, and State courts all recognize that a natural parent has a fundamental liberty interest in maintaining their parental relationship with their natural children that is protected under Amendment XIV of the United States Constitution. *Bell v. City of Milwaukee* (U.S.Ct.App. 7th Cir. WI 1984), 746 F.2d 1205; *Brennan v. Brennan* (1982), 454 A.2d 901; *Caban v. Mohommad* (1979), 441 U.S. 380, 99 S.Ct. 1760, 60 L.Ed. 2d 297; *Cameron v. Hughes* (Alaska 1992), 825 P.2d 882; *Carson v. Elrod* (D.C. E.D. VA 1976), 411 F. Supp. 645; *Doe et. al. v. Delaware* (1981), 450 U.S. 382, 101 S.Ct. 1495, 67 L.Ed. 2d 312, 49 U.S.L.W. 4250; *Doe v. Irwin* (D.C. Mich. 1985), 441 F. Supp. 1247; *Fantony v. Fantony* (1956), 122 A.2d 593; *Franz v. U.S.* (U.C.Ct.App. 1983), 707 F.2d 582; *Griswold v. Connecticut* (1965), 381 U.S. 479; *Gross v. State of Illinois* (Ill. 1963), 312 F.2d 257; *Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, (1982), 455 U.S. 489; *Kelson v. Springfield* (U.S.Ct.App. 9th Cir. 1985), 767 F.2d 651; *Langton v. Maloney* (D.C. Conn. 1981), 527 Fed. Supp. 538; *Lassiter v. Department of Social Services* (1981), 452 U.S. 18, 101 S.Ct. 2153, 68 L.Ed. 2d 640, 49 U.S.L.W. 4586; *Lehr v. Robertson et. al.* (1983), 463 U.S. 248, 103 S.Ct. 2985, 77 L.Ed.2d 614, 51 U.S.L.W. 5010; *Mabra v. Schmidt* (D.C. WI 1973), 356 F. Supp. 620; *Matthews v. Lucas* (1976), 427 U.S. 495; *May v. Anderson* (1952), 345 U.S. 528, 73 S.Ct. 840; *Meyer v. Nebraska* (1923), 43 S.Ct. 625; *Michael H. et. al. v. Gerald D.* (1989), 491 U.S. 110, 109 S.Ct. 2333, 105 L.Ed. 2d 91, 57 U.S.L.W. 4691; *Orr v. Orr*, 440 U.S. 268, 99 S.Ct. 1102, 59 L.Ed.2d 306; *Palmore v. Sidoti*, 466 U.S. 429, 104 S.Ct. 1879; *Pfizer v. Lord* (U.S.Ct.App. MN 1972), 456 F.2d 532, cert denied 92 S.Ct. 2411; *Prince v. Massachusetts* (1944), 321 U.S. 158; *Quilloin v. Walcott* (1978), 434 U.S. 246, 98 S.Ct. 549; *Santosky v.*

Kramer (1982), 455 U.S. 745, 102 S.Ct. 1388, 71 L.Ed. 2d 599, 50 U.S.L.W. 4333; *Smith v. Organization of Foster Families* (1977) 431 U.S. 816; *Stanley v. Illinois* (1972), 405 U.S. 645; *Stanton v. Stanton* (1972), 421 U.S. 7, 95 S.Ct. 1373; *Wise v. Bravo* (C.A. CO 1981), 666 Fed.2d 1328; *Yick Wo v. Hopkins* (1886), 118 U.S. 356; *Hollingsworth v. Hollingsworth* (1986), 34 Ohio App.3d 13, 516 N.E.2d 1250; *In re Adoption of Cassada* (1960), 171 Ohio St. 368, 171 N.E.2d 511; *In re Adoption of Greer* (1994), 70 Ohio St.3d 293, 638 N.E.2d 999; *In re Adoption of Holcomb* (1985), 18 Ohio St.3d 361; *In re Adoption of Masa* (1986), 23 Ohio St.3d 163; *In re Adoption of Mays et. al.* (1986), 30 Ohio App.3d 195, 507 N.E.2d 453, 1986 Ohio App. LEXIS 10069, 30 Ohio B. Rep. 338; *In re Adoption of Schoeppner* (1976), 46 Ohio St.2d 21; *In re Adoption of Zschach* (1996), 75 Ohio St.3d 648, 665 N.E.2d 1070; *In re Awkal* (1994), 94 Ohio App.3d 309, 642 N.E.2d 424; *In re Burchfield* (1988), 51 Ohio App.3d 148, 555 N.E.2d 325; *In re Hayes* (1997), 79 Ohio St. 3d 46; *In re Hitchcock* (1997), 120 Ohio App.3d 88, 696 N.E.2d 1090; *In re J.S. and C.* (129 NJ Super at 489), 324 A.2d 90; *In re Jackson Et Ux Jackson Et Ux v. Spellman* (1934), 55 Nev. 174, 28 P.2d 125, 1934 Nev. LEXIS 7, 91 A.L.R. 1381; *In re Schaeffer Children* (1993), 85 Ohio St.3d 683, 621 N.E.2d 426; *In re U.P.* (Utah 1982), 648 P.2d 1364; *In the Interest of Cooper* (Kans. 1980), 621 P.2d 437, 5 Kans. App. Div.2d 584; *In the Interest of: Micah Alyn R., A Child Under the Age of Eighteen Years* (1998), 504 S.E.2d 635, 1998 W. Va. LEXIS 45; *Matter of Delaney* (Okla. 1980), 617 P.2d 886; *Matter of Gentry* (Mich App. Div 1983), 369 N.W.2d 889; *Nash v. Byrd* (S.C. Ct. App. 1989), 381 S.E.2d 913; *Reis v. Zimmer* (N.Y.A.D. 4 Dept., Dec. 30, 1999), 1999 WL 1269418, 1999 N.Y. Slip Op. 11484; *Reynold v. Baby Fold, Inc.* (1977), 369 N.E.2d 858, 68 Ill.2d 419, appeal dismissed 98 S.Ct. 1598, 435 U.S. 963; *State ex. rel. Smith v. Smith* (1996), 75 Ohio St.3d 418, 662 N.E.2d 366; *State v. Ivey* (1994), 98 Ohio App.3d 249, 648 N.E.2d 519; *Zivich v. Mentor Soccer Club, Inc.* (1998), 82 Ohio St.3d 367, 696 N.E.2d 201.

United States Supreme Court Justice Stevens, as Circuit Justice, recognized the parental rights of a fit biological father in a contested adoption and custody dispute involving parties in the states of Iowa and Michigan by denying a Motion for Stay. *Deboer v. Deboer* (1993), 509 U.S. 1301.

Adoption in Ohio is a special statutory proceeding that has no counterpart in the common law. As such, legal adoptions granted pursuant to O.R.C.3107.14 and affirmed pursuant to O.R.C. 3107.16 require strict adherence to statutory provisions for jurisdictional purposes, in addition to the due process requirements of proper notice and the opportunity to be heard. *Balint v. Horvath* (1965), 5 Ohio Misc. 242, 34 O.O.2d 247, 212 N.E.2d 200; *In re Adoption of Francis* (1947), 82 Ohio App. 193, 49 Ohio Law Abs. 435, 77 N.E.2d 289; *In re Fetzer* (1997), 118 Ohio App.3d 156, 692 N.E.2d 219; *In re Todhunter's Adoption* (1941), 33 Ohio Law Abs. 567, 35 N.E.2d 992.

IV. "Consent Phase":

Historically, the consent of a natural parent to the adoption of their natural child is a constitutional prerequisite for the adoption. This also applies to divorced parents. Each State's consent requirements are statutory, defining who must consent to an adoption, and the requirements of giving voluntary consent. O.R.C.3107.06; O.R.C.3107.08; *In re Olson* (1896), 3 Ohio N.P. 304, 3 Ohio Dec. 668; *In re Ramsey* (1956), 164 Ohio St. 567, 55 O.O. 431, 132 N.E.2d 469; *Kessel et. al. v. Leavitt et. al.* (1998), 204 W.Va. 95, 511 S.E.2d 720; *Matter of Adoption of Hupp* (1982), 9 Ohio App.3d 128, 458 N.E.2d 878; *State ex. rel. Scholder v. Scholder* (1924), 2 Ohio Law Abs. 451, 22 Ohio Law Rep. 608; "Consent of natural parents as essential to adoption where parents are divorced", 47 A.L.R.2d 824.

When consent is not volunteered by the natural parent contesting their child's adoption, various states create exceptions to the constitutional right of a natural parent to consent to their child's adoption by a third party. In Ohio, this exception to consents required is created by O.R.C.3107.07(A). The statute allows consent of the natural parent to be not required if the natural parent fails to support or communicate with their child within a specified amount of time (currently one year). There is no standard statewide definition of support or communication in the statute. Because of this lack of statutory guidance, the courts in the various districts of Ohio have used various interpretations of what support or communication is required for a natural parent to retain their

right to consent, and some parents retained their right to consent while others lost their right to consent, under the same statute with similar fact patterns. *Celestino v. Schneider* (1992), 84 Ohio App.3d 581, 616 N.E.2d 581; *In re Adoption of Bovett* (1987), 33 Ohio St. 3d 102; *In re Adoption of Cline* (1993), 89 Ohio App.3d 450, 624 N.E.2d 1083; *In re Adoption of Greer* (1994), 70 Ohio St.3d 293, 638 N.E.2d 999; *In re Adoption of Hudnell* (1996), 113 Ohio App.3d 296, 680 N.E.2d 1055; *In re Adoption of Jones* (1990), 70 Ohio App.3d 576, 591 N.E.2d 823; *In re Adoption of Jordan* (1991), 72 Ohio App.3d 638, 595 N.E.2d 963; *In re Adoption of Jorgensen* (1986), 33 Ohio App.3d 207, 515 N.E.2d 622; *In re Adoption of Kuhlman* (1994), 99 Ohio App.3d 44, 649 N.E.2d 1279; *In re Adoption of Lassiter* (1995), 101 Ohio App.3d 367, 655 N.E.2d 781; *In re Adoption of Masa* (1986), 23 Ohio St.3d 163; *In re Adoption of Ridenour* (1991), *61 Ohio St.3d 319, 574 N.E.2d 1055*; *In re Adoption of Salisbury* (1982), 5 Ohio App.3d 65, 5 O.B.R. 161, 449 N.E.2d 519; *In re Adoption of Shaw* (1950), 91 Ohio App. 347, 103 N.E.2d 236; *In re Adoption of Wagner* (1997), 117 Ohio App.3d 448, 690 N.E.2d 959, discretionary appeal not allowed, 78 Ohio St. 3d 1516; *In re Doe* (1997), 123 Ohio App.3d 505, 704 N.E.2d 608.

Many legal research documents have been written on the subject of consents not required. The consent determinations in these contested adoption cases have been cited in Ohio Jurisprudence: "What constitutes failure to support?" (1994), 47 OH Jur.3d, Family Law, § 921. Another source is "Sufficiency of parent's consent to adoption of child", 24 A.L.R.2d 1127. Finally, the legal community in Ohio has recognized the need for legislative action regarding the consent issues in "Note: Ohio's Exception to Consent in Adoption Proceedings: A Need for Legislative Action" (1985/1986), 36 Case W.Res.L.Rev. 348. So far, neither the Ohio legislature nor the Supreme Court of Ohio have adopted standard definitions of support or communication necessary to find the natural parent's consent not required under O.R.C.3107.07(A).

V. Is the consent determination a final appealable order?

Prior to 1994, Ohio courts disagreed on this topic. The Supreme Court of Ohio determined that a finding that consent is not re-

quired of a natural parent is a final appealable order in *In re Adoption of Greer* (1994), 70 Ohio St.3d 293, 638 N.E.2d 999. It is important to note that this consent determination does not terminate any parental rights, other than consent. In fact, if the proposed adoption petition is dismissed, the consent determination is no longer valid in these cases, because the consent judgment is only valid for these adoptions, and not for any other attempted adoptions.

Therefore, the consent determination itself is not really a final determination of consent status, and it is wholly dependent upon the outcome of the adoption petition itself. *In re Adoption of Cline* (1993), 89 Ohio App.3d 450, 624 N.E.2d 1083; *In re Adoption of Greer* (1994), 70 Ohio St.3d 293, 638 N.E.2d 999; *In re Adoption of Jones* (1990), 70 Ohio App.3d 576, 591 N.E.2d 823; *In re Adoption of Jordan* (1991), 72 Ohio App.3d 638, 595 N.E.2d 963; *In re Adoption of Jorgensen* (1986), 33 Ohio App.3d 207, 515 N.E.2d 622; *In re Adoption of Ridenour* (1991), 61 Ohio St.3d 319, 574 N.E.2d 1055; *In re Adoption of Salisbury* (1982), 5 Ohio App.3d 65, 5 O.B.R. 161, 449 N.E.2d 519; *In re Adoption of Wagner* (1997), 117 Ohio App.3d 448, 690 N.E.2d 959, discretionary appeal not allowed, 78 Ohio St. 3d 1516; *Matter of Adoption of Hupp* (1982), 9 Ohio App.3d 128, 458 N.E.2d 878.

There has been much discussion in the legal community of Ohio regarding final appealable orders. See "Comment: Fairness and Finality: Rethinking Final Appealable Orders Under Ohio Law" (Fall 1995), 64 U.Cin.L.Rev. 143.

VI. "Best Interest Phase":

Once the requirement for recognizing the natural parent's consent has been negated, the natural parent contesting the adoption faces the best interest determination. Best interest is determined under O.R.C.3107.161, in addition to other sections of the adoption code which provide the court with best interest information through statutory investigations, evaluations, and written reports via O.R.C.3107.031, O.R.C.3107.082, O.R.C.3107.09, O.R.C.3107.12, all of which seem to be attempts to gather information for the adoption process. The adoption code is written as if the non-consenting natural parent doesn't have any rights during the

adoption process. It appears that it is assumed that the natural parent's rights have already been either voluntarily given or involuntarily terminated prior to the adoption process. In any case, these contested adoption proceedings did not consider the importance of the parental rights of the natural father during the best interest phase of these adoptions. The adoption code appears to give more rights to the prospective adoptive step father than to the natural father who is contesting the adoptions.

To this effect, the natural father in these adoptions was denied an interview by the State social worker conducting the State-initiated investigations, evaluations, and written reports. He was also deprived of notice of filing of the State's written reports with the trial court, and any information from or about the natural father was not allowed into the State's written best interest reports. The State social worker entered "N/A" in the section pertaining to the natural father contesting these adoptions. This appears to say that the natural father's wishes, and his best interest information as to his own children is "not applicable" to these adoption proceedings.

VII. Attacking the Consent Judgment:

Due process and equal protection constitutional considerations of the contested adoption process in Ohio raise questions pertaining to the standards and procedures used to permanently terminate parental rights in the best interest of a child under the current statutory scheme using the two-step process of first determining "consent" pursuant to O.R.C. 3107.07 (A) and then determining "best interest" pursuant to O.R.C. 3107.161.

VIII. Standards Used to Determine Consent:

There is no definition of support or communication in the statute O.R.C.3107.07(A). Each judge has his or her own opinion of what constitutes "enough" support. It may vary in dollars from $36.00 is "enough" support in *Celestino,* supra., to $329.40 is not "enough" support in *Wagner,* supra. It may or may not include non-monetary support in the form of diapers, clothing, or food. In these contested adoption cases, it does not include court-ordered

health insurance paid by the natural father for the support of his children.

Each individual contested adoption case in Ohio has its own definition of support or communication, and its own standards. No one knows what the next consent decision will be, even if the factual pattern is similar or identical. There is no uniform method for calculating the correct amount of support, nor for determining whether that amount of support is "enough". Both the Ohio legislature and the Supreme Court of Ohio have been criticized in the opinions of the various appellate courts of Ohio as to this issue, and they have to-date not fixed the problem. This affects many parents and children in Ohio and other states who find themselves in a contested adoption in Ohio. This raises the question of the constitutionality of O.R.C.3107.07(A) for vagueness. See *Grayned v. City of Rockford* (1972), 408 U.S. 104; *Springfield Armory v. City of Columbus* (6th. Cir. 1994), 29 F.3d 250. Even the United States Supreme Court has disagreed on what the term "child support" means in a legislative statute. *Sullivan v. Stroop* (1990), 496 U.S. 478.

IX. 28 United States Code Section 1738B et. seq.:

In 1994, Congress enacted 28 U.S.C. § 1738B Full faith and credit for child support orders, which specifically defined "child support" for the purpose of interpreting and enforcing interstate child support orders. The federal statute includes payment of health insurance as "child support" required to be given full faith and credit in the State of Ohio. These contested adoption cases do not include the natural father's amount of money paid to provide health insurance for his children, which had been ordered by a State of Indiana court order. In short, the State of Ohio did not use the correct amount of support to determine the natural father's consent in these contested adoptions.

The State of Ohio adopted the Restatements of the Law, Second, Conflict of laws, in *Morgan et. al. v. Biro Manufacturing Company, Inc.* (1984), 15 Ohio St.3d 339. However, neither the trial judge, nor the appellate courts applied these rules in determining the correct amount of child support to apply to O.R.C.3107.07(A).

The trial judge interpreting the Indiana child support order did not count the natural father's payments of health insurance as support entitled to full faith and credit in Ohio under Article IV, Section 1 of the United States Constitution. Also, the trial judge did not apply the correct choice of law, which would be the law of the State of Indiana pursuant to 28 U.S.C. § 1738B(h)(2) Choice of law (former 28 U.S.C. § 738B(g)(2)). The trial judge's reason for negating the natural father's payments of health insurance was because the natural father did not "communicate" the existence of the health insurance to the custodial mother. There is no such stipulation in the plain language of the federal statute. In fact, Indiana case law requires the *custodial parent* to communicate any health care needs of the children with the non-custodial parent providing the health insurance, and places the *burden of communication* on the custodial parent, not the non-custodial parent. See *Andrews v. Andrews* (Ind. Ct. App. 3d Dist. 1988), 531 N.E.2d 219. Notification of health insurance to the custodial parent is in the child support order ordering the non-custodial parent to provide the health insurance. The United States Supreme Court discussed the full faith and credit clause as it relates to interstate child support issues in *Yarborough v. Yarborough* (1933), 290 U.S. 202. Today, 28 U.S.C. § 1738B provides the guidance suggested by Justices Stone and Cardozo in Yarborough.

The natural father in these contested adoption cases should be given full faith and credit by the State of Ohio for his health insurance payments pursuant to 28 U.S.C. § 1738B. *Connell v. Woodward* (1998), 235 Ga. App. 751, 509 S.E.2d 647, cert denied April 9, 1999; *Department of Human Resources v. Fenner* (1998), 235 Ga. App. 233, 510 S.E.2d 534; *Department of Human Resources v. Pruitt* (1996), 223 Ga. App. 126, 476 S.E.2d 764; *Georgia Dept. of Human Resources v. Deason* (Ga.App. July 7, 1999), 238 Ga. App. 853, 520 S.E.2d 712, 99 FCDR 2799; *Justis v. Justis et. al.* (1998), 81 Ohio St.3d 312, 691 N.E.2d 264; *Timothy Rupert v. Ryobi North America, et. al.* (N.Y.A.D. 4 Dept., Dec. 30, 1999), 1999 WL 1268200, 1999 N.Y. Slip Op. 11472.

X. Is the State of Ohio consent judgment subject to collateral attack in the United States Supreme Court, or is it res judicata pursuant to state laws?

What complicates this Petition is that the State of Ohio will not review the consent determination on its merits being contrary to federal law and State of Indiana law because the State of Ohio has applied the State rules of res judicata to bar the natural father from questioning the consent judgment. The status of the natural father's consent was determined in *In re Adoption of Wagner* (1997), 117 Ohio App.3d 448 and *In re Wagner* (1997), 78 Ohio St.3d 1516. However, this judgment falls under conflicts of laws rules, Restatement of the Laws, Second, Conflict of laws, § 97, and Article VI of the United States Constitution.

A state court judgment may be reviewed by the United States Supreme Court where it is in conflict with an important federal policy such as the child support policies stated in 28 U.S.C. § 1738B. Restatement of the Laws, Second, Judgments, § 81, Invalid judgments states that recognition of a judgment may under certain circumstances be reexamined in a subsequent action pursuant to Restatement of the Laws, Second, Conflict of laws, § 97. Res judicata as to jurisdiction over consent status is subject to the Supremacy Clause, Article VI, United States Constitution, that will prevent application by a State of such a rule of res judicata when to do so would conflict with an important federal policy. *Kalb v. Feuerstein* (1940), 308 U.S. 433; *Kloeb v. Armour Co.* (1940), 311 U.S. 199.

XI. Is the March 22, 1995, judgment in conflict with important federal policy sufficient to overcome state rules of res judicata?

In these contested adoptions, the natural father is asking this Court to review the constitutionality of the March 22, 1995, consent judgments entered in these cases, pursuant to Article VI; Article IV, Section 1; Article III, Section 2; and 28 U.S.C. § 1738B, in that the state judgment is in conflict with important federal policy. Questions of the United States federal courts' future role in determining these interstate child support issues will depend on the "domestic relations" exception, and whether the federal child support statute brings these issues under 28 U.S.C. § 1331, or allows removal for defendants under 28 U.S.C. § 1441 and 28 U.S.C. § 1446, allowing federal courts to give full faith and credit

to child support orders where state courts refuse to do so. For recent discussion of the domestic relations exception see *Ankenbrandt v. Richards* (1992), 504 U.S. 689.

XII. Constitutionality of Best Interest Standards and Procedures Used to Permanently Terminate Parental Rights:

Even without reviewing the constitutionality of the prior consent judgment in these contested adoptions, there is a fundamental constitutional problem with the granting of the adoptions regarding due process and equal protection under Amendment XIV of the United States Constitution. Parental rights are not terminated until *after* the adoption is granted pursuant to O.R.C.3107.15(A)(1). Thus, the standards and procedures of the best interest determination require constitutional protections for the natural parent contesting the adoptions. O.R.C.3107.11 provides basic notice requirements for best interest hearings. However, the best interest process denies natural parents of fundamental due process and equal protection.

There is no requirement to prove parental unfitness in order to terminate parental rights. This federal question was raised in *Santosky v. Kramer* (1982), 455 U.S. 745, at 760, footnote 10. Under the Ohio standards and procedures, the adoption is granted and the natural parent's parental rights are terminated with no proven finding of parental unfitness.

The adoption process itself denies the natural parent of due process and equal protection in that it treats natural fathers and potential adoptive step fathers differently from a constitutional perspective and seems to favor the step father. O.R.C.3107.031 (former O.R.C.3107.12) requires the State to do a home study of the suitability of the step parent's home, but denied this right to the natural parent, in order to prove his suitability as a parent in a non-custodial home environment when the children are allowed to exercise lawful visits pursuant to custody agreements, court orders and 28 U. S. C. § 1738A et. seq. A natural parent married to a step parent does not have to give consent. O.R.C.3107.07(E). O.R.C.3107.082 requires an assessor to meet with the parents prior to giving voluntary consent, but not if their consent is involuntarily

determined. This requirement is not necessary for step parent adoptions. O.R.C.3107.09 requires the State to record the social and medical histories of the biological parents, but not if it is a step parent adoption — there is no requirement to interview the natural parent to include best interest information, or the social and medical histories of the non-consenting natural parent.

The natural parent's rights are considered to be already terminated because of the consent determination. However, the Uniform Adoption Act states that the purpose for the consent statute is to allow courts to negate consent rights without finding that a natural parent has abandoned their child if certain facts of a certain duration occur. 9 U.L.A. 27, Section 6. A finding of consent not required is not a proven finding of abandonment. See *Matter of Adoption of Hupp* (1982), 9 Ohio App.3d 128, 458 N.E. 878; *In re Olson* (1896), 3 Ohio N.P. 304, 3 Ohio Dec. 668; *In re U.P.* (Utah 1982), 648 P.2d 1364; "What constitutes abandonment or desertion of child by its parent or parents within purview of adoption laws", 35 A.L.R. 662.

O.R.C.3107.12 requires the State to perform a prefinalization assessment and report of the minor and the adoptive parent, unless it is a step parent adoption. There is no requirement to provide any information in the State reports from or about the natural father contesting the adoptions. *In re Adoption of Howell* (1991), 77 Ohio App.3d 80, 60 N.E.2d 92; *In re Fetzer* (1997), 118 Ohio App.3d 156, 692 N.E.2d 219.

XIII. Notice of Filing State-initiated written reports:

O.R.C.3107.11 only requires notice of the best interest hearing. O.R.C.2317.39 requires the court to notify all parties of the filing of reports of investigation with the trial court, prior to the trial court's using these reports ex-parte. Without this notice of filing, the natural father's counsel cannot know about the reports and adequately defend against unknown information that might appear in the State's written reports, especially if the natural parent has been denied an interview by the State social worker. The trial court did not provide the natural father with this notice pursuant to this Ohio statute. A natural parent cannot exercise their right to

petition the court pursuant to O.R.C.3107.17 for copies of reports for which they have not been notified of the filing of these reports.

XIV. Religion, Equal Protection, Amendment I and Amendment XIV of the United States Constitution:

The judgment granting the adoption petitions was based in part on the religious church activities of the adoptive family. This is a violation of the equal protection clause of Amendment XIV of the United States Constitution, and possibly Amendment I of the United States Constitution. There is no State interest in granting or denying an adoption in the best interest of a child based on whether or not the prospective adoptive family attends or is involved in church activities. Prospective adoptive families and individuals should be able to adopt children in the United States without regard to their chosen religious creed or lack thereof.

XV. Conclusion:

The United States Supreme Court should grant this Petition for Writ of Certiorari to the Eleventh District Court of Appeals of Ohio and review the constitutionality of both the prior consent judgment and the judgment granting the adoptions and the appeals thereof, entered in these contested adoption cases, in order to provide guidance to State courts in interpreting interstate child support orders pursuant to federal full faith and credit requirements, and in order to provide due process standards and procedures to natural parents contesting the adoptions of their natural children, and to other natural parents facing the permanent termination of their parental rights in other parental rights termination proceedings.

O.R.C. 3107.07 (A) should be declared unconstitutional as applied in Ohio. Ohio Revised Code Chapter 2151 already provides for the permanent termination of parental rights and is already recognized in the adoption code under O.R.C. 3107.07 (D). There is no reason for any State to terminate the parental rights of fit natural parents in the best interest of their children by subjecting both the children and their parents to procedures similar to those used in Ohio's contested adoptions. Parental rights should be permanently

terminated before an adoption is allowed to be granted. Currently, the adoption is granted before the parental rights are terminated. It should be the other way around. The Due Process Clause of the United States Constitution demands it. The natural father's right to consent should be recognized by the Ohio courts.

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